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November 18, 2009

Ms. Jennifer L. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Sent Via Email

RE: Proposed Rulemaking – Regulation Z; Docket No. R-1370

Dear Ms. Johnson:

The Pennsylvania Credit Union Association (PCUA) appreciates this opportunity to provide comments to the Board of Governors of the Federal Reserve (Board) on its proposed rules implementing the provisions of the Credit Card Accountability, Responsibility and Disclosure Act of 2009 (CARD Act) and republishing other final and proposed amendments to the open-end lending rules included in Regulation Z.

As a matter of background, the PCUA is a statewide trade association that represents over 80% of the approximately 561 credit unions located within the Commonwealth of Pennsylvania.

The PCUA consulted with its Regulatory Review Committee (the Committee) in order to provide comments to this proposed rule. The Committee consists of twelve (12) credit union CEOs who lead the management teams of Pennsylvania's federal and state-chartered credit unions. Members of the Committee also represent credit unions of all asset sizes. The comments contained in this letter reflect the input of the Committee and PCUA staff.

Credit Cards offered by credit unions do not generally include the anti-consumer features and practices targeted by the CARD Act and in the proposed implementing regulations.

In October of 2007, we wrote you regarding the Board's proposed rules to amend the open-end lending regulations under Regulation Z. In that comment letter we noted that credit unions in Pennsylvania have historically offered lower rates and fewer fees on credit card products than other types of financial institutions.

We further noted, at that time, that the credit card products offered by Pennsylvania credit unions do not typically include the complex pricing structures, fees and penalties that are associated with credit card products offered by the larger U.S. credit card issuers as identified in the GAO's

September 2006 report entitled, *CREDIT CARDS Increased Complexity in Rates and Fees Heightens Need for More Effective Disclosures to Consumers* (GAO-06-929) (“GAO Report”). Similarly, credit cards issued by Pennsylvania credit unions do not include the anti-consumer features and practices that are targeted in the provisions of the CARD Act.

Our research shows that Pennsylvania credit unions offering credit card products have not engaged in the practice of implementing default rates for consumer’s performance with another creditor and, to the best of our knowledge, no members have engaged in the practice of allocating payments to lower APR balances prior to applying them to older balances. Further, the rates and fees charged by our members typically are not tiered based upon the amount or type of balance.

In our 2007 comment letter, we shared some survey results with you showing that Pennsylvania credit unions, on average, charge lower purchase and default interest rates and lower rate and high balance fees than the average rates and fees reported in the GAO Report.

The same remains true today. In fact, our latest survey, which includes 2009 data, shows that some of the rates and fees charged by Pennsylvania credit unions that participate in PCUA’s credit card program have actually declined since 2007. Those rates and fees continue to be significantly lower than those charged by other financial institutions.

But don’t just take our word for it. Since August of this year, there have been six articles published in major newspaper publications touting the low costs and benefits of credit cards issued by credit unions.

- It May Be Time to Find a New Credit Card, *NY Times* (August 22, 2009) by Ron Lieber: “Credit unions often offer lower interest rates; find one that will accept you at Creditunion.coop.”
- Consumer Reports Poll: Consumers Angry At Credit Card Companies; Citing Unfair Treatment When Closing Accounts, *Consumer Reports*’ (November 2009): “Where to Look for Good Cards: Credit-union cards. Joining a group can make consumers eligible for some good credit-union cards.”
- Suze Orman Hails the “Debtors Revolt” Movement Video, www.huffingtonpost.com (October 19, 2009): “Orman had [Ann] Minch [a consumer] on her show to tell her story. When Minch mentioned that she’d closed her savings and checking accounts with Bank of America and put her money in a local bank, Orman seized on that and encouraged viewers to do the same—to do business with financial institutions that treat their customers ethically. “I now am on the bandwagon of credit unions, everybody,” Orman said.”
- Credit Cards: Break Up, or Make Up?, *The Wall Street Journal* (November 4, 2009) by Karen Blumenthal: “If you want to use your card sparingly while getting fair rates and low fees, consider cards from a regional bank or big credit union. The Pew Safe Cards Project, part of the Pew Charitable Trusts, recently compared 12 large bank issuers and 12 large credit unions and found the credit unions’ advertised rates were much lower and their penalty fees were about half of what the banks charged.”

- Better Cards From Credit Unions, *NY Times* (November 10, 2009) by Ron Lieber: “But if you’re carrying a large balance over months or years, you will often pay lower rates and receive better treatment from a credit union. Why is that? Credit unions are nonprofit entities and are controlled by their members, which gives them a big advantage on pricing.”
- The Bank Revolt of ’09, *New York Post* (November 15, 2009) by Catherine Curan: “Looking to hang onto their hard-earned cash in a recession, tri-state residents are fleeing to low-cost credit unions.” “New Yorkers are flocking to credit unions because these institutions—which are owned by members and offer a limited menu of loan, checking and savings options compared to mega banks—typically charge lower fees and offer higher savings yields than major banks.” “In addition, credit unions are appealing to consumers wary of big Wall Street banks awash in complicated financial instruments like credit default swaps that credit unions do not create or trade.”

Pennsylvania credit unions generally support the Board’s efforts to revise loan disclosures to improve consumer understanding and provide clarity regarding rates, fees, and loan terms.

The members of our Committee appreciate the Board’s objective to provide consumers with disclosures in formats that improve the ability of consumers to understand the terms and conditions of the credit being offered and extended to them. As mentioned above, credit unions have been recognized as pro-consumer financial institutions and have found that they benefit when consumers are fully informed and understand the rates and terms of the credit card disclosures provided to them.

Our Committee members advised that the vendors, which provide open-end loan disclosures to their members, anticipate that the new disclosures will be available in time for the relevant effect dates included in the proposed regulation.

However, we note and caution that each revision or amendment implemented under the name of improving the simplicity and clarification of loans disclosures adds costs. Those costs are typically borne by the credit unions and their members. In consideration of the many articles recently published citing credit union credit cards as low cost, consumer friendly alternatives, it is clearly counterintuitive to increase the costs of credit union credit cards products to improve disclosures unnecessarily.

We submit that the “one size fits all approach” to open-end lending disclosures under Regulation Z has run its course.

In order to maintain low cost, consumer friendly credit cards, it is imperative that the disclosures and notices provided by credit unions to their members are relevant to the interest rate calculations, fee structures, and terms and conditions applicable to the actual products offered by credit unions.

In attempting to address the anti-consumer features and practices of other credit card providers, most of which are for-profit entities, through the passage of the CARD Act and the proposed implementing regulations, Congress and the Board are requiring credit unions to employ loan disclosures that are more complex and complicated than necessary.

Many credit unions use consumer friendly multi-featured open-end plans to address their members' financial needs.

We appreciate that the Board reconsidered its earlier proposal to eliminate the ability of credit unions to serve their members using multi-featured open-end plans. The Board's decision to retain the authority in Regulation Z for multi-featured open-end plans is recognition that credit union members benefit from this unique lending platform, which provides the credit union and its member a holistic view of their relationship.

The relationship between credit unions and their members is predicated on the understanding that credit unions strive to maintain long term financial relationships with their member owners (and their families). Multi-featured open-end plans allow credit unions to provide convenient service at low costs to their members so they return time and time again to use the credit union's products and services.

Notwithstanding the retention of the authority, the new regulation requires credit unions to readdress the processes and procedures they employ to offer multi-featured open-end plans. Again, this restructuring has the potential of increasing the costs and complexity of performing lending functions using this platform. We question whether the additional costs and changes were even necessary given the fact that multi-featured open-end plans were easily understood and were in the best interests of consumers.

The NCUA should retain the authority to promulgate and enforce the regulations under the Truth in Lending and CARD Acts so that it may tailor the regulations to address the open-end lending products and services, including credit card products, that are offered by credit unions.

In consideration of the above comments, what has become obvious over the last twelve months is that credit union products and services have the "characteristics of standard consumer financial products or services" that were once included in the proposed legislation implementing the Consumer Financial Protection Agency (CFPA).

As explained by the Obama Administration and cited by Congressional leaders, the CFPA's "mandate" would be "to promote transparency, simplicity, fairness, accountability, and access in the market for consumer financial products or services." Its "objectives" would be to ensure that consumers have the information necessary to make responsible financial decisions, to protect consumers from abusive and discriminatory practices, to maintain fair and efficient financial markets, and to ensure that "traditionally underserved consumers and communities have access to financial services."

Ms. Jennifer J. Johnson
Secretary of the Board

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November 18, 2009

We respectfully submit that credit union financial products and services, and credit cards in particular, are currently transparent to consumers in terms and features and pose lower risks to consumers than alternative financial products and services offer by for-profit entities. Credit unions have traditionally offer “plain vanilla” loan products and services. The 841 page proposal published by the Board, if made applicable to credit union credit cards, will likely only serve to cloud credit union members’ understanding of the credit card product offered.

Accordingly, as in financial regulatory restructuring, we believe the time is ripe for the NCUA to address the disclosures, prohibitions and limitations applicable to credit union credit card products under the Truth in Lending Act and now the CARD Act. We submit that it is time to break away from the “one size fits all approach” to open-end lending disclosures and regulations and for the NCUA to adopt regulations that are practical and relevant to the credit card products that are offered by credit unions.

We have provided a copy of this letter to the NCUA Board.

Thank you again for this opportunity to provide comments. Please feel free to contact me or any of the PCUA staff at 1-800-932-0661 if you have any questions or if you would like to discuss the contents of this letter.

Sincerely,

Pennsylvania Credit Union Association

Laurie S. Kennedy
Associate Counsel

LSK:llb

cc: NCUA Board
Association Board
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